



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,600	04/18/2001	Sylvain Kravtchenko	05725.0883-00	7876

22852 7590 04/16/2003

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 04/16/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,600

Applicant(s)

KRAVTCHENKO ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1--68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-68 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 1751

DETAILED ACTION

1 This action is responsive to the remarks filed on 2/6/2003.

2 The terminal disclaimer filed on 2,13,2003 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 09/836,411 has been reviewed and is accepted. The terminal disclaimer has been recorded.

3 Claims 1-4 and 6-68 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lim et al. (US 5,993,491) in view of de la Mettrie et al. (WO 99/17730) and Schimitt et al. (US 5,865,853), for the reasons set forth in the previous office action on paper No. 7, dated 8/13,2002.

4 Claim 5 stands objected to for the reasons set forth in the previous office action on paper No. 7, dated 8/13/2002.

Response to Applicant's Arguments

5 Applicant's arguments filed February /6/2003 have been fully considered but they are not persuasive.

With respect to the rejection based upon Lim (US' 491) in view of de la Mettrie (WO' 730) and Schimitt et al. (US' 853), Applicant argues that there is no evidence of a motivation or suggestion to combine the references because the references teach different dye systems.

The examiner respectfully disagrees with the above arguments because Lim (US' 491) as a primary reference teaches and discloses a hair dyeing composition comprising the compound of 1-(4-aminophenyl) pyrroildine as an oxidation base as recited in the claimed formula (1) (see col. 4, formulae 1 and 2) and de la Mettrie (WO' 730) as a secondary reference clearly teaches and discloses in analogous art a hair dyeing composition comprising oxidation bases and direct

Art Unit: 1751

dyes chosen from nitrobenzene dyes and cationic dyes as claimed (see page 2, line 3 and page 52 to page 75) and Schmitt (US' 853) in other analogous art of hair dyeing composition clearly teaches and suggests a hair dyeing composition comprising direct dyes of nitrobenzene compounds as claimed (see col. 3, lines 8-30). Therefore, it would have been obvious to one having ordinary skill in the art to combine 1-(4-aminophenyl) pyrroildine as an oxidation base as taught by Lim, with the direct dyes of nitrobenzene compounds as taught by de la mettrie (WO' 730) and Schmitt (US' 853) with the reasonable expectation of success because De la Mettrie clearly suggests the use of direct dyes with the oxidation bases for dyeing hair as described above. Therefore, a prima facie case of obviousness has been established. Furthermore, with respect to the argument based on the example on pages 81-83 in the specification, the examiner advised the applicant to provide a data or showing to indicate that the dyeing composition of the claimed invention demonstrates superior and unexpected results over the closest prior art composition because in the recited Example the applicant select dyeing ingredients chosen from different prior art and compare them with the claimed composition.

6 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1751

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

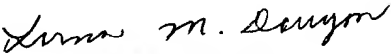
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Elhilo
April 14, 2003




LORNA M. DOUYON
PRIMARY EXAMINER